

Application No.: 10/664,454
Amendment and Response dated December 20, 2006
Reply to Office Action of August 24, 2006
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Remarks

The application has been amended. In particular, claims 1, 11 and 27 have been amended to recite that the bioactive agent is filled within the pocket. Support for these amendments can be found, for example, in paragraphs [0040], [0076] to [0078], and in the figures of the present application. These amendments do not introduce new matter.

Claim Rejections Under 35 U.S.C. §102(b)

The Examiner has rejected claims 1-12, 14-16, 18-22 and 27 under 35 U.S.C. §102(b), as allegedly being anticipated by U.S. Patent No. 6,139,573 to Sogard, et al. (hereinafter "Sogard"). The Examiner alleges that Sogard discloses a bioactive agent located within a pocket adjacent to the solid segments of an intermediate structural member, and cites column 9, lines 25-37 of Sogard in this regard.

In consideration of the claim amendments and the arguments presented herewith, these rejections are respectfully traversed.

Amended independent claims 1 and 27 provide a device for delivery of bioactive agents associated therewith to a site of implantation of the device. The device includes a first polymeric liner, a second polymeric liner, and an intermediate structural member defined by solid segments and openings therebetween. The first polymeric liner is bonded to the second polymeric liner through the openings so as to form a pocket adjacent to the solid segments, the pocket being defined by the first and second liners and the solid segments. The device further includes a bioactive agent filled within the pocket.

Sogard fails to disclose or suggest bioactive agents within a pocket, as claimed. Sogard also fails to disclose or suggest drugs/bioactive agents filled within the pocket, as presently claimed.

With respect to bioactive agents, Sogard discloses at column 9, lines 25-37 that bioeffecting agents may be coated on the polymeric cover or conformal layer, or on the stent. However, Sogard fails to disclose that bioactive agents are employed on the air gap-contacting surface of the polymeric cover or conformal layer shown in Figure 9. Sogard also fails to disclose that bioactive agents are employed on stent side surface portions 17b or 17c spanning air gap 33 in Figure 9. In the absence of such disclosure, one of skill in the art would not recognize that a bioactive agent would be present in Sogard's pocket, as alleged by the Examiner.

In fact, there is no disclosure or suggestion that there is anything present in Sogard's pocket 33 other than air, and it is specifically identified as an air gap. However, even if a bioactive agent could be located on the portion of the cover, layer or stent within the pocket of Sogard's device, it certainly is not filled within the pocket as specifically set forth in the present claims. Therefore, there is nothing in Sogard which would teach or suggest filling the pocket with a bioactive agent.

In summary, Sogard fails to disclose, teach or suggest a bioactive agent in a pocket, and that the bioactive agent is filled within the pocket. Therefore, the claims of the present invention are deemed to be patentably distinct over Sogard. Withdrawal of these rejections is respectfully requested.

Claim Rejections Under 35 U.S.C. §103 (a)

The Examiner has also rejected claims 13, 17 and 23-26 under 35 U.S.C. §103(a) as allegedly being unpatentable over Sogard, et al. in view of U.S. Patent No. 6,428,571 to Lentz, et al. The Examiner appears to use the Lentz reference for its disclosure with respect to the use of natural polymers in the polymeric liners.

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Claims 13, 17 and 23-26 depend directly or indirectly on claim 1. As set forth above, claim 1 is patentably distinct over the primary reference. The Lentz reference fails to fill the deficiencies of the primary reference. Therefore, claims 13, 17 and 23-26 are similarly patentable. Withdrawal of these rejections is respectfully requested.

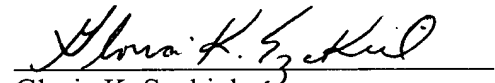
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Summary

Applicant has responded in full to the present Office action. It is believed that all of the claims of the present invention are patentable over the cited references, either alone or in combination. Favorable action thereon is respectfully solicited.

Should the Examiner have any questions or comments concerning this Response, the Examiner is respectfully invited to contact the undersigned agent at the telephone number set forth below.

Respectfully submitted,


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